

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JERRY R. ROSE,	:	Case No. 1:15-cv-353
	:	
Petitioner,	:	Judge Timothy S. Black
	:	
vs.	:	Magistrate Judge Stephanie K.
	:	Bowman
WARDEN, CHILICOTHE	:	
CORRECTIONAL INSTITUTION,	:	
	:	
Respondent.	:	

**DECISION AND ENTRY
ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 47),
OVERRULING PETITIONER’S OBJECTIONS (Doc. 48), and
TERMINATING THIS CASE IN THIS COURT**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge Stephanie K. Bowman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court, and, on March 22, 2018, submitted a Report and Recommendation. (Doc. 47). Petitioner timely filed objections (“Objections”). (Doc. 48).¹

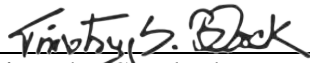
¹ Petitioner’s Objections fail to demonstrate that the Magistrate Judge erred in denying relief on all four grounds of the petition. As to Ground One, the Magistrate Judge properly held that Petitioner does not have a constitutional right to withdraw a guilty plea. As to Ground Two, the Magistrate Judge properly concluded that the trial court’s alleged failure to follow Ohio Criminal Rule 11 is a non-cognizable state-law claim, and, in any event, Petitioner has not demonstrated that his plea was entered unknowingly, involuntarily, or unintelligently. As to Count Three, the Magistrate Judge properly concluded that the trial court’s authority to issue an Amended Judgment of Conviction is a state law issue not cognizable on federal habeas corpus, and that Petitioner has failed to show Ohio’s vexatious litigator statute violates due process. Finally, the Court agrees that Ground Four, for ineffective assistance of counsel, fails for the reasons explained on pages 20-24 of the Report and Recommendation.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Report and Recommendation should be and is hereby **ADOPTED** in its entirety. Accordingly:

1. The Report and Recommendation (Doc. 47) is **ADOPTED**;
2. The Objections (Doc. 48) are **OVERRULED**;
3. The Petition, as amended, for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Docs. 1, 27, 33) is **DENIED** with prejudice;
4. Petitioner's motion for preliminary injunction (Doc. 46) is **DENIED**;
5. A certificate of appealability is **DENIED**;
6. Pursuant to 28 U.S.C. § 1915(a)(3), the Court certifies that an appeal of this Order would not be taken in good faith, and Petitioner is **DENIED** leave to appeal *in forma pauperis*; and
7. The Clerk shall issue judgment accordingly, whereupon this case is **TERMINATED** on the docket of this Court.

IT IS SO ORDERED.

Date: 9/21/18



Timothy S. Black
United States District Judge